

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

MW BUILDERS, INC., a Missouri
corporation, and GREAT
AMERICAN ALLIANCE INSURANCE
COMPANY, an Ohio corporation,

CV 02-1578-AS

ORDER

Plaintiffs,

v.

SAFECO INSURANCE COMPANY OF
AMERICA, a Washington corporation;
SAFECO INSURANCE COMPANY OF
OREGON, an Oregon corporation; AMERICAN
STATES INSURANCE COMPANY, an Indiana
corporation; ELLIOT, POWELL, BADEN &
BAKER, INC., an Oregon company; LAWRENCE
REX ESTATE, d/b/a REX & COMPANY (by and
through its personal representative, L.V. Rex); and
LAWRENCE REX TRUST (by and through its
trustee, L.V. Rex),

Defendants.

HAGGERTY, Chief Judge:

On February 16, 2005, Magistrate Judge Ashmanskas issued a Findings and
Recommendation (Doc. #136) regarding cross-motions for summary judgment filed in this

action.¹ Magistrate Judge Ashmanskas recommended granting the summary judgment motions filed by Elliott, Powell Baden & Baker (Elliott) (Doc. #67) and by the Rex defendants (Rex) (Doc. #72), and he recommended denying MW Builders' Motion for Summary Judgment against Elliott and Rex (Doc. #76). Objections to the Findings and Recommendation were due by March 2, 2005. No objections were filed.

The matter is now before this court pursuant to 28 U.S.C. § 636(b)(1)(B) and Fed. R. Civ. P. 72(b). A district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). When a party timely files a written objection to a Findings and Recommendation, the court must make a *de novo* determination of those portions of the Findings and Recommendation to which objections are made. *Id.* When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation of the magistrate judge. *Thomas v. Arn*, 474 U.S. 140, 149-151 (1985); *Campbell v. United States Dist. Court*, 501 F.2d 196, 206 (9th Cir. 1974) ("If neither party contests the magistrate's proposed findings of fact, the court may assume their correctness and decide the motion on the applicable law.").

The court has reviewed the record of this case, and no clear error appears on its face. Accordingly, the court adopts Magistrate Judge Ashmanskas' Findings and Recommendation.

CONCLUSION

The Magistrate Judge's Findings and Recommendation (Doc. #136) is ADOPTED in

1. This is the third of three related Findings and Recommendations issued by Judge Ashmanskas in this case. The relevant factual background and procedural history are explained in detail in those Findings and Recommendations, as well as in this court's two orders adopting them. They will not be repeated here.

its entirety. Elliot's Motion for Summary Judgment (Doc. #67) is GRANTED, Rex's Motion for Summary Judgment (Doc. #72) is GRANTED, and MW Builders' Motion for Summary Judgment (Doc. #76) is DENIED.

IT IS SO ORDERED.

Dated this _18__ day of May, 2005.

/s/Ancer L.Haggerty

ANCER L. HAGGERTY
United States District Judge